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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/688,491

10/16/2003

Rosa Gonzales

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08/31/2006

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EXAMINER

BUI, LUAN KIM

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 08/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/688,491

Applicant(s)

GONZALES, ROSA

Examiner

Luan K. Bui

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term adapted is used in the claims is indefinite because it has no clear meaning. How is it adapted? Claims 4, 7, 10 and 15 are indefinite because each claim uses improper Markush group (the word "and" should be inserted between the last and second last items).

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 7, 21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Luebcke (4,241,833). Luebcke discloses a container system (10) comprising at least one container (64) and at least another container/used container (58). The at least one container of Luebcke is inherently capable to contain a plurality of suction catheter kits and the at least another container is inherently capable to contain a used suction catheter.
- As to claims 2-3, Luebcke further discloses the at least another container comprises at least one holder (52) such as hook and loop fastening material.

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As to claim 21, Luebcke discloses the at least one container comprises an opening which is considered equivalent to at least one dispensing slot as claimed.

As to claim 23, Luebcke also at least one holder (52) for holding an item (56) and another holder (52) for holding an item (54). The at least one holder of Luebcke is inherently capable to hold at least one water container and the another holder is inherently capable to hold at least one solution container.

5. Claims 1, 4, 6 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Beddow (4,226,328). Beddow discloses a container system (10) comprising at least one container (11) for holding a catheter (13) and at least another container/used container (12). The at least one container of Beddow is inherently capable to contain a plurality of suction catheter kits and the at least another container is inherently capable to contain a used suction catheter. As to claim 4, Beddow further discloses at least one container (26, 27) containing a lubricant jelly.

As to claim 6, the at least another container/used container is adapted to nest within the at least one container.

As to claim 21, Beddow discloses the at least one container comprises an opening (top) which is considered equivalent to at least one dispensing slot as claimed.

As to claim 23, Beddow also discloses many other holders or containers within the another container (12). Each holder/container is inherently capable to hold at least one water container or at least one solution container.

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6. Claims 1, 6, 8, 9 and 18-23 are rejected under 35 U.S.C. 102(b) as being anticipated by McGarrah (5,924,615). McGarrah discloses a storage box/container system (10) comprising at least one container (12) and at least another container/used container (14). The at least one container of McGarrah is inherently capable to contain a plurality of suction catheter kits and the at least another container is inherently capable to contain a used suction catheter.

As to claim 6, McGarrah discloses the at least another container is adapted to nest within the at least one container.

As to claims 8 and 18, McGarrah further discloses at least one attacher structured (16) and the attacher structured of McGarrah is inherently capable to hang the container system from furniture or the upper rail of a crib.

As to claim 9, McGarrah discloses the another container comprises a plurality of compartments with at least of the compartment is inherently capable to hold at least one water container and at least one solution container.

7. Claims 1, 2, 4, 7, 15, 21 and 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Brewer (4,928,830). Brewer discloses a kit/container system (20) comprising at least one container (56) and at least another container/used container (42). The at least one container of Brewer is inherently capable to contain a plurality of suction catheter kits and the at least another container is inherently capable to contain a used suction catheter.

As to claim 2, Brewer discloses at least one holder (56, 72) is inherently capable to hold a used catheter.

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As to claim 4, Brewer discloses at least one item container (48) for holding a lubricating gel pack (52).

As to claim 21, Brewer discloses each container includes a top opening which is considered equivalent to the dispensing slot as claimed.

As to claims 23 and 24, Brewer further discloses at least one solution holder (46) adapted to hold at least one solution container (54) and at least one water holder (44) adapted to hold at least one water container (50).

As to claims 25 and 26, Brewer discloses the caps (60, 66) are considered equivalent to the cups as claimed.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beddow (4,226,328) or Brewer in view of Slonim (6,116,426). Beddow or Brewer discloses the container system as above having all the limitations of the claim. To the extent that Beddow or Brewer fails to show at least one pad and at least one swab, Slonim teaches a kit including at least one pad (22) and at least one swab (18). It would have been obvious to one having ordinary skill in the art in view of Slonim to modify the container system of Beddow or Brewer so it includes at least one pad and at least one swab to provide more convenient for the user.

10. Claims 10-17 are rejected under 35 U.S.C. 103(a) as being unpatentable McGarrah (5,924,615) in view of The Official Notice. McGarrah discloses the storage box/container system (10) as above having all the limitations of the claims except for a gauze or a tape. The Official Notice is taken of the old and conventional practice of providing a storage box having a gauze or a tape/medical tape within the storage box. It would have been obvious to one having ordinary skill in the art in view of The Official Notice to modify the storage box of McGarrah so it includes a tape to provide more convenient for the user.

11. Claims 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable Brewer (4,928,830) in view of The Official Notice. To the extent that Brewer fails to show identification indicia in the holders, The Official Notice is taken of the old and conventional practice of providing indicia to indicate an item to provide convenient for the user. It would have been obvious to one having ordinary skill in the art in view of The Official Notice to modify the container system of Brewer so each of the water holder and solution holder includes an identification indicia to provide more convenient for the user. With respect to the identification comprises a different color, it would have been obvious to one having ordinary skill in the art to modify the container system of Brewer as modified so the identification indicia comprises a different color because the selection of the specific indicator such as the identification indicia or a different color would have been an obvious matter of design choice inasmuch as the resultant structures will work equally well and inasmuch as applicant's specification does not state that

using these specific indicator as claimed solves any particular problem or yields any unexpected results.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. **The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for Formal papers and After Final communications.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lkb  
August 29, 2006



Luan K. Bui  
Primary Examiner  
Art Unit 3728